IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

MFA.No. 1091 of 1999()

OP(MV).537/1989 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM
.....

APPELLANT: PETITIONER

JOSE CHERIAN, S/O. ITTY CHERIYATHU
KIZHAKKEKARA HOUSE, VELLAPPATTU KARA,
LALAM VILLAGE, KOTTAYAM DT.

BY ADV. SRI.MATHEW JOHN (K)

RESPONDENTS: RESPONDENTS
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1. **PRASANNA GIRISAN, W/O.GIRISAN,**
GIRIVIHAR, EDAPPALLY P.O.,
COCHIN.24.

2. **THE UNITED INDIA INSURANCE**
CO.LTD., MADRAS.

3. **THANKACHAN, S/O.RAPHAL JOSEPH,**
VADAKKATHU HOUSE, COCHIN 24,
ERNAKULAM.

BY ADV. SRI.MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.F.A. NO. 1091 OF 1999

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Dated this the 5th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Kottayam in O.P.(MV) 537/89. The claimant sustained injuries in a road accident thereby he had sustained fracture of left humerus bone and the Tribunal awarded a compensation of Rs.49,750/-. It is against that decision the present appeal is preferred.

2. Heard both sides. This Court at the time of admission referred the mater to a Medical Board and the Superintendent of Medical College Hospital, Kottayam constituted a Medical Board and assessed the permanent disability of the person at 33.75%. The said Board consists of Orthopedic Surgeon as well and therefore we do not find any ground to reject that certificate. So we fix the disability at 34% to calculate the compensation. The Tribunal has taken an income of Rs.1,000/- in the year 1989 which appears to be reasonable. Therefore, after fixing the disability at

34%, the annual loss of dependency will come to Rs.4,080/- and applying a multiplier of 13 the total disability compensation will come to Rs.53,040/-. The Tribunal has already awarded Rs.20,000/-. Therefore, the additional compensation the claimants will be entitled to is Rs.33,040 under that head.

3. The learned counsel for the appellant also contends that on account of the serious disability he was not able to do any work for a period of six months. Considering the percentage of disability we feel the said submission of the counsel is correct. Hence, we feel an amount can be awarded for loss of earnings for six months. The Tribunal has already awarded an amount of Rs.3,500/- under that head. So, the additional compensation the claimant will be entitled to is Rs.2,500/- under that head. In all other heads the Tribunal has awarded just and reasonable compensation.

In the result, the M.F.A. is partly allowed and the claimant is awarded an additional compensation of Rs.35,540/- with 7% interest on the said sum from the date of petition till realisation

and the Insurance Company is directed to deposit the same within a period of two months from the date of receipt of a copy of this judgment.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

ul/-

K.S. RADHAKRISHNAN &
M.N. KRISHNAN, JJ.
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M.F.A. NO. 1091 OF 1999
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J U D G M E N T

5th January, 2007.